

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

MAURICE LARRY DeLEE,
Plaintiff,

v.

ORDER
09-CV-838

SEAN WHITE, DANIELLE ESPOSITO, RN,
JAMES LAMBERT, THOMAS DIXON,
ANTHONY POLAK, JEFFREY BEA,
SUPERINTENDENT JAMES CONWAY, PAUL
CHAPPIUS, NORMAN BEZIO, DEANNA
CARHART, WENDY PHILLIPS, CAPTAIN K.
BROWN, C. LUNDQUIST, Assistant Inmate
Grievance Director, KAREN BELLAMY,
Director of Inmate Grievance, CHARLES M.
HANNIGAN, SIBATA KHAHFIA, EDWARD
O'MARA, DANIEL O'CONNOR, all in their
official and individual capacities,

Defendants.

This case was referred to Magistrate Judge Leslie G. Foschio, pursuant to 28 U.S.C. § 636(b)(1)(A). On May 6, 2011 and September 8, 2011, defendants filed motions to dismiss for failure to state a claim. On November 15, 2011, Magistrate Judge Foschio filed a Report and Recommendation, recommending that both motions to dismiss be granted in part and denied in part.

Plaintiff filed objections to the Report and Recommendation on November 29, 2011. Defendants filed a response on December 20, 2011 and plaintiff filed a reply thereto on January 20, 2012.

Pursuant to 28 U.S.C. § 636(b)(1), this Court must make a de novo determination of those portions of the Report and Recommendation to which objections have been made. Upon a de novo review of the Report and Recommendation, and after reviewing the submissions, the Court adopts the proposed findings of the Report and Recommendation.

Accordingly, for the reasons set forth in Magistrate Judge Foschio's Report and Recommendation, defendants' motions to dismiss are granted in part and denied in part.

The case is referred back to Magistrate Judge Foschio for further proceedings.

SO ORDERED.

s/ Richard J. Arcara
HONORABLE RICHARD J. ARCARA
UNITED STATES DISTRICT JUDGE

DATED: February 22, 2012